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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/105,844	06/26/1998	USHA UPADHYAYULA	INTL-0055(P5	6060

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EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/105,844

Applicant(s)

UPADHYAYULA ET AL.

Examiner

Haythim J. Alaubaidi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 37-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____



DETAILED ACTION

1. This communication is in response to the request for reconsideration filed on 16 April, 2003.
2. Claims 1-29 and 37-42 are presented for examination following the amendment, of which Claims 1, 7, 14, 22, 37 and 40 are independent claims.
3. Independent Claims 1, 7, 14, 22, 37 and 40 are rejected under 35 U.S.C. 112, first and second paragraphs.
4. Independent Claims 1, 7, 14, 22 and 37-42, are rejected under 35 U.S.C. 102(b).
5. Claims 15 and 21 are rejected under 35 U.S.C. 103(a).
6. Independent Claims 1, 7 and 14, are also rejected under 35 U.S.C. 103(a) with another set of references.
7. Independent Claim 22, is also rejected under 35 U.S.C. 103(a) with another set of references.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1, 7, 14, 22, 37 and 40 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter (*the condition of the image sensor during capture of the graphical object*) which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

application was filed, had possession of the claimed invention. The specification, including the Applicant support pages cited in the document attached to the Interview Summery dated 31 May 2003, (Page 5, Lines 29 through Page 6, Line 7); and the support pages cited in the request for reconsideration (page 6, Lines 21-26) do not provide support for the new matter that was added.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 7, 14, 22, 37 and 40 recites the limitation " *the condition of the image sensor during capture of the graphical object* ". There is insufficient antecedent basis in the Specification for this limitation.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 7, 14, 22 and 37-42, are rejected under 35 U.S.C. 102(b) as being anticipated by Gary K. Starkweather (U.S. Patent No. 5,694,227 and Starkweather hereinafter).

Regarding Claims 1, 7, 37 and 40, Starkweather teaches:

- receiving a graphical object together with associated image information (Col 2, Lines 18-19, i.e. *receives color samples of images to provide sampling data*; see also Col 4, Line 45, i.e. *receives the color image data*; see also Col 3, Lines 54-56, i.e. *samples article 18 to provide color image data*)¹ relating to a condition of an image sensor during capture of the graphical object (Col 7, Lines 64 through Col 8, Line 7, i.e. *This calibration data sampled from the color standard is stored as sensor characteristic data*; see also Col 7, Lines 50-57, i.e. *During sensor 20 calibration, a known color sample is used as article 18 for measurement by sensor 20. That sample article 18 is then used to make data adjustments to sensor 20. In this way, sensor 20 can itself be calibrated against a known standard*)
- generating the device profile (Col 4, Lines 59-66, i.e. *transforms the device independent color space 14 to a device profile 15*; see also Col 8, Line 19, i.e. *generate a device profile*)
- identifying the device profile to a color management system (Col 4, Lines 66-67 through Col 5, Line 1; see also Col 7, Lines 43-48).

Regarding Claim 14, the limitations of this claim have been noted in the rejected claim 1 and 7, above. In addition Starkweather teaches:

- a computer system having a bus (Col 7, Line 7)
- a device, operatively coupled to the bus (Col 7, Line 5, i.e. *processor 11 connected to sensor 20*)
- a generator to generate a device profile (Col 7, Lines 34-36).

Regarding Claim 22, Starkweather teaches:

- Image part and data part (Col 7, Lines 52-53, i.e. *article 18*; see also i.e. *make data adjustments*)
- comparing and selectively generating (Col 8, Lines 20-26, i.e. *this generation of a device profile may result in a newly generated device profile or may involve only the adjustment of an existing device profile as determined by the color transform engine 53 in step 80*).

Regarding Claims 38 and 41, Starkweather discloses extracting the associated information from the image information (Col 6, Lines 42-43, i.e. *can be placed in separate sensor packages*) dynamically generating the device profile (Col 4, Lines 59-66, i.e. *transforms the device independent color space 14 to a device profile 15*; see also Col 8, Line 19, i.e. *generate a device profile*).

Regarding Claims 39 and 42, Starkweather discloses automatically identifying the device profile to a color management system (Col 4, Lines 66-67 through Col 5, Line 1; see also Col 7, Lines 43-48).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

¹ The Examiner would also like to direct the Applicant's attention to Patent No. 6273535, Figure 1, Element No 5.

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gary K. Starkweather (U.S. Patent No. 5,694,227 and Starkweather hereinafter) and further in view of Carl Douglas Hayes, Jr. et al. (U.S. Patent No. 6,283,858 and Hayes hereinafter).

Regarding Claim 15, Starkweather reference discloses all of the claimed subject matter set forth above, except it does not explicitly indicate a device such as a digital camera, even though the reference does in fact talk about different devices (Col 1, Line 31). However Hayes teaches a device such as a digital camera (Col 3, Lines 62-67). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teaching of Starkweather with the teachings of Hayes to include a device such as a digital camera with the motivation to generate images with such details just as in real life (Hayes, Col 5, Lines 25-29).

Regarding Claim 21, Starkweather reference discloses all of the claimed subject matter set forth above, except it does not explicitly indicate a second circuit, operatively coupled to the device. However Hayes teaches a circuit, operatively coupled to the device (Col 3, Lines 66-67 through Col 4, Line 1). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teaching of Starkweather with the teachings of Hayes to include a circuit, operatively coupled to the device with the motivation to link and process the photographs or the physical images into data received by the computer (Hayes, Col 4, Lines 2-3).

16. Claims 1, 7 and 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroyuki Sakuyama et al. (U.S. Patent No. 6,226,011 and Sakuyama hereinafter) and further in view of Gary K. Starkweather (U.S. Patent No. 5,694,227 and Starkweather hereinafter).

Regarding Independent Claims 1,7 and 14, Sakuyama reference discloses all of the claimed subject matter set forth above, except it does not explicitly indicate generating a device profile. However Starkweather teaches generating a device profile (Col 4, Lines 59-66, i.e. transforms the device independent color space 14 to a device profile 15; see also Col 8, Lines 19, generate a device profile). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Sakuyama with the teachings of Starkweather to include generating a device profile in order to set the measurements or the characteristics of the image to be used in presenting this image to an output device.

17. Claim 22, is rejected under 35 U.S.C. 103(a) as being unpatentable over Christopher J. Edge (U.S. Patent No. 6,088,038 and Edge hereinafter) and further in view of Gary K. Starkweather (U.S. Patent No. 5,694,227 and Starkweather hereinafter).

Regarding Claim 22, Edge reference discloses all of the claimed subject matter set forth above, except it does not explicitly indicate selectively generating a current device profile. However Starkweather teaches selectively generating a current device profile (Col 8, Lines 20-26, i.e. this generation of a device profile may result in a newly

generated device profile or may involve only the adjustment of an existing device profile as determined by the color transform engine 53 in step 80). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Edge with the teachings of Starkweather to include selectively generating the device profile in order to select one of the device profiles depending on the output device, i.e. display 19 or printer 17 as different output devices require different device profiles (Starkweather, Col 7, Lines 34-38).

Response to Arguments

Applicant's arguments with respect to independent Claims 1, 7, 14, 22, 37 and 40, have been fully considered, but they are not persuasive.

Applicant argues that Starkweather does not teach the limitation of receiving a graphical object together with associated image information. The Examiner respectfully disagrees. Starkweather teaches receiving a graphical object together with associated image information (Col 2, Lines 18-19, i.e. *receives color samples of images to provide sampling data*; see also Col 4, Line 45, i.e. *receives the color image data*; see also Col 3, Lines 54-56, i.e. *samples article 18 to provide color image data*); also it is well known in the art when a digital image is captured it is the image it self and the information or the data relating to the image that is associated with it also get captured and stored in some kind of memory. In the previous Office Action dated 13 February, 2003 the Examiner cited a reference for Hirowo Inoue U.S. Patent No. 6/273,535 as an example for the well know feature.

Applicant argues that Starkweather does not teach the limitation of "*the condition of the image sensor during capture of the graphical object*". The Examiner agrees, but the Examiner would also like to indicate that this limitation is not considered, as it lacks the antecedent basis and the support in the Specification. The reason because, the support in the Specification mentioned by the Applicant in the document attached to the Interview Summery dated 31 May 2003, (Page 5, Lines 29 through Page 6, Line 7) is in regard to the "illuminant condition", which is the lighting environment of the image sensor; and not in regard to the condition of the actual device (image sensor) as one would interpret from reading the Claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Points of Contact

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (703) 305-1950. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any response to this office action should be mailed to:

The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or telefax at our fax number (703) 746-7238 or (703) 746-7239 or (703) 746-7240.

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, 6th Floor Receptionist, Arlington, Virginia. 22202.

Haythim J. Alaubaidi

Haythim J. Alaubaidi
Patent Examiner
Technology Center 2100
June 19, 2003


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